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CITIES



December 21, 2010

To: Members of the Legislature

From: Associated General Contractors
California Alliance for Jobs
California State Association of Counties
California Transit Association
League of California Cities
Regional Council of Rural Counties
Transportation California

Re: Comprehensive Fix to Address Propositions 22 & 26 and the March 2010 Transportation Tax Swap

The Problem

The passage of Proposition 22 and Proposition 26 have many implications for the Transportation Tax Swap (AB 8X 6: Tax Provisions and AB 8X 9: Allocation Formulas) enacted in March 2010. Recall, the swap made the following major changes:

1. Eliminated the sales tax on gas and replaced it with a 17.3-cent excise tax increase on gasoline, indexed to keep pace with what the sales tax on gasoline would have generated in a given fiscal year to ensure true revenue neutrality.
2. Reduced the excise tax on diesel to 13.6-cents and replaced it with an increase in the sales tax rate on diesel by 1.75 percent, and provided an exemption to hold harmless entities that would be impacted from the change (SB 70).

A primary reason for enacting the swap was to remove transportation funding from the general fund and the annual budget debate. Equally important is the state general fund savings estimated at approximately \$1 billion annually from the replacement 17.3-cent excise tax or Highway User Tax Account (HUTA) dedicated to transportation bond debt service.

However, Prop 22 limits the use of HUTA funds for bond debt and general fund relief as required in the swap. Further, Proposition 26 invalidates the replacement taxes contained in AB 8X 6 within 12-months of its passage and is self-executing in November 2011.

The Solution

In order to address these issues with the Transportation Tax Swap, we urge the Legislature to enact a comprehensive solution that addresses state general fund, state and local transportation, and transit concerns. The comprehensive package should:

1. Validate the replacement tax provisions as contained in AB 8X 6 with a 2/3rds vote of the Legislature (Prop 26 fix);

2. Approve the transfer of Transportation Weight Fees from the State Highway Account (SHA) to a fund to provide the General Fund relief and backfill any losses to the SHA with a portion of the replacement 17.3-cent excise tax (Prop 22 fix); and
3. Reenact a revised AB 8X 9 (Allocations Formulas) that allows the new 17.3-cent gas excise tax and 1.75 percent sales tax rate increase on diesel to be allocated for its intended uses and achieves the same fiscal results anticipated in March (Prop 22 fix). This includes:
 - a) Language to allocate the new Section 2103 Highway User Tax Account (HUTA) funds for the STIP, SHOPP, and Local Streets and Roads; and
 - b) Language to achieve something closer to the originally-intended split of Public Transportation Account revenues that recognized the importance of funding local transit operations.

The Imperative

The loss of \$2.5 billion in revenue jeopardizes transportation projects across California, threatens thousands of jobs, and negatively impacts the overall economic wellbeing of the State given the multiplier effects from infrastructure investment. This loss of transportation revenue would be devastating to California's transportation programs affecting state, regional and local projects across all systems and modes.

The most effective path to provide certainty and avoid the risk of losing these transportation funds and provide the State this much needed and promised general fund relief is to pass a comprehensive package to fix the issues with the transportation tax swap from Propositions 22 and 26.